IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Crl.Rev.Pet.No. 683 of 2000()

CRA.5/1998 of SESSIONS COURT, KASARAGOD
CC.396/1996 of JUDL. MAGISTRATE OF FIRST CLASS-II, HOSDRUG

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REVN. PETITIONER:

PUNCHAKKARA KUMARAN,
S/O.KARIKUTTY, AGED 42 YEARS,
KUNBALAPPALLI DESOM, KARINDALAM VILLAGE,
HOSDURG TALUK.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.3748/2000 IN CRL.R.P.NO.683/2000

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

23/10/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.683 of 2000-C

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Dated this the 23rd day of October, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 58 of the Abkari Act and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.15,000/- and in default to undergo rigorous imprisonment for three months on the prosecution allegation that he was found in possession of three litres of illicit arrack on 16/11/1995.

2. The evidence adduced in the matter consisted of the testimony of PWs.1 to 3 and Exts.P1 to P3 and MO.1 plastic can.

3. PW.1 the independent witness did not support the prosecution case. PW.2 is the Preventive Officer who allegedly headed the excise party who apprehended the accused. The contention raised by the revision petitioner is that there is inordinate delay in producing the material objects before the court below. It is seen that the material objects including the sample were produced before the court below only on 29/05/1996, i.e. more than six months subsequent to the

alleged detection. There was no explanation for the above delay. It was also to be taken note of that only the evidence of PW.2 the Preventive Officer supported the prosecution version. In the circumstances and in view of the fact that the delay of more than six months to produce the contraband is not explained, I find the accused is entitled for the benefit of doubt. The order of the court below is set aside. The accused is acquitted. The criminal revision petition is allowed accordingly.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.683 of 2000-C

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O R D E R

23rd October, 2007